## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

**DOCKET NO.:** 2008-0457-WQ-E **TCEQ ID:** RN105464515 **CASE NO.:** 35564

**RESPONDENT NAME:** Melrose Construction, Inc.

ORDER TYPE:		
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
AMENDED ORDER	EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
X WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
SITE WHERE VIOLATION(S) OCCURE County TYPE OF OPERATION: Residential cons	<b>XED:</b> Melrose Construction Tuscan Village, 102 Va	lley View Street, Glen Rose, Somervell
SMALL BUSINESS: X Yes N	No .	
OTHER SIGNIFICANT MATTERS: One piece of property causing water and sediment actions regarding this facility location.	complaint was received on January 8, 2008, alleging to flow onto a neighboring property. There is no re	g the Respondent was clearing and grading a ecord of additional pending enforcement
INTERESTED PARTIES: A complaint wa Agenda.	s received, but the complainant has not expressed a	desire to protest this action or to speak at
COMMENTS RECEIVED: The Texas Reg	ister comment period expired on August 18, 2008.	No comments were received.
Bryan Sinclair, Enforcement Divis Respondent: Mr. James Burkhart,	: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement	

**DOCKET NO.:** 2008-0457-WQ-E

VIOLATION SUMMARY CHAR		International controls for all the controls of the control of the
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:  X Complaint Routine Bnforcement Follow-up Records Review  Date(s) of Complaints Relating to this Case: January 8, 2008  Date of Investigation Relating to this Case: January 16, 2008  Date of NOV/NOE Relating to this Case: March 5, 2008 (NOE)  Background Facts: This was a complaint investigation.  WATER  Failure to develop and implement a storm water pollution prevention plan ("SWP3") and obtain authorization coverage to	Total Assessed: \$1,500  Total Deferred: \$300	Corrective Actions Taken:  The Executive Director recognizes that the Respondent submitted an administratively complete Notice of Intent ("NOI") and obtained coverage under Permit No TXR15KA62 on March 3, 2008.
discharge storm water associated with construction activities [30 Tex. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].		en de la companya de La companya de la companya de

Additional ID No(s).: STW Non-permitted

Policy Revision 2 (Septen	Penalty Calculation Worksheet (P	CW) PCW Revision February 29, 200
TCEO	DG1 2002)	
DATES Assigned 1	7-Mar-2008	
	8-Mar-2008 Screening 18-Mar-2008 EPA Due	1
Annual and an annual an annual and an annual a		The second secon
RESPONDENT/FACILITY IN		
	elrose Construction, Inc.	
Reg. Ent. Ref. No. R	N105464515	
Facility/Site Region 4-	Dallas/Fort Worth Major/Minor Source	Minor
CASE INFORMATION		
Enf./Case ID No. 35		
		Jorge Ibarra, P.E.,
Media Program(s)		Enforcement Team 3
Multi-Media Admin. Penalty \$ Lir		Littorcement ream 3
Admin. Penalty \$ Lii	mic withinium \$10,000	
	Danelty Coloulation Coation	
	Penalty Calculation Section	
TOTAL BASE PENALT	Y (Sum of violation base penalties)	Subtotal 1 \$2,00
	・ A T 所有を表現機能でいた。そのでは、そのでは、またでは、できました。 「 T I I I I I I I I I I I I I I I I I I	
ADJUSTMENTS (+/-) T	O SUBTOTAL 1	
Subtotals 2-7 are obtained	by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	/ 0% Enhancement Subt	otals 2, 3, & 7 \$
Notes	No change due to no previous compliance history.	
L L		1
Culpability	No 0% Enhancement	Subtotal 4 \$
		]
Notes	The Respondent does not meet the culpability criteria.	
k i l		1
Good Faith Effort to	Comply 25% Reduction	Subtotal 5 \$50
GOOG FAIGH EHOLL	Before NOV NOV to EDPRP/Settlement Offer	Sabiotary
Extraordinary	Beide NOV 110 to EBITTI Podulonia Citati	
Ordinary	X	
N/A	(mark with x)	
		1 .
Notes	The Respondent achieved full compliance on March 3, 2008.	
L		1
	0% Enhancement*	Subtotal 6
Т	otal EB Amounts \$32 *Capped at the Total EB \$ Amount	
Approx. Co	st of Compliance \$5,000	
William Charles and Charles an		Barrier and Caracter (Control of the Caracter
SUM OF SUBTOTALS	1-7	Final Subtotal \$1,50
monación o, 1 do M. M. Maria.	The state of the s	NAMES TANKEN A STORE SERVE
	JUSTICE MAY REQUIRE 0%	Adjustment
Reduces or enhances the Final Sub	total by the indicated percentage.	7
		· ·
Notes		· ·
L.		4.5
	Final Pe	nalty Amount \$1,50
		erandum (III.) kun eran i
STATUTORY LIMIT AD	JUSTMENT Final Asso	essed Penalty \$1,50
	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
DEFERRAL	20% Reduction	Adjustment -\$30
Reduces the Final Assessed Penalt	y by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)	
2000		
Notes	Deferral offered for expedited settlement.	
***************************************		_
		NAME OF THE OWNER OWNER OF THE OWNER OWNE
PAYABLE PENALTY	마음 등 경기 10 10 15 전 15 전 15 전 15 등 등 보호 다음 등을 가는 것이 되었다. 그는 것이 되었다. 그 15 전 15	\$1,20

Screening Date 18-Mar-2008

Docket No. 2008-0457-WQ-E

Respondent Melrose Construction, Inc.

**Case ID No. 35564** 

Policy Revision 2 (September 2002) PCW Revision February 29, 2008

Adjust.

Enter Number Here

Reg. Ent. Reference No. RN105464515

Component Number of...

Media [Statute] Water Quality Enf. Coordinator Jorge Ibarra, P.E.,

**Compliance History Worksheet** >> Compliance History Site Enhancement (Subtotal 2)

NOVs	Written NOVs with same or similar violations as those in the current enforcement ac (number of NOVs meeting criteria)	tion	0%	
	Other written NOVs	0	0%	
	Any agreed final enforcement orders containing a denial of liability (number of ordering criteria)		0%	
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a de of llability, or default orders of this state or the federal government, or any final prohib emergency orders issued by the commission	enial itory 0	0%	,
Judgment and Conse		oility ting 0	0%	
Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final c judgments or consent decrees without a denial of liability, of this state or the fed government		0%	
Conviction		0.0	0%	
Emissions	S Chronic excessive emissions events (number of events)	0	0%	
Audits	Letters notifying the executive director of an intended audit conducted under the Te Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number audits for which notices were submitted)		0%	
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privi Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )		0%	
		Please Enter Yes or No	)	
	Environmental management systems in place for one year or more	No	0%	
Other	Voluntary on-site compliance assessments conducted by the executive director unde special assistance program	era No	0%	
	Participation in a voluntary pollution reduction program	. No	0%	
	Early compliance with, or offer of a product that meets future state or federal governmental requirements		0%	
Repeat Violator (S		nt Percentage (S	ubtotal 2)	0'
The state of the s		nt Percentage (S	ubtotal 3) [	09
Compliance Histo	ory Person Classification (Subtotal 7)			E CO
Average	Performer Adjustmen	nt Percentage (S	ubtotal 7)	09
Compliance Histo	ory Summary			
Compliand History Notes	No change due to no previous compliance history.			
	Total Adjustment Percent			09

Screening Date 18-Mar-2008	Docket No. 2008-0457-WQ-E	
Respondent Melrose Construction, Inc.	C. Policy Revision 2 (September 200	2)
Case ID No. 35564	PCW Revision February 29, 200	28
Reg. Ent. Reference No. RN105464515		
Media [Statute] Water Quality		
Enf. Coordinator Jorge Ibarra, P.E.,		
Violation Number 1		
Rule Cite(s)	281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)	- 1
30 Tex. Admin. Code 9	201.25(a)(4) and 40 Code of Federal Regulations 9 (22.25(c))	
		2000
	nplement a storm water pollution prevention plan ("SWP3") and discharge storm water associated with construction activities.	ABOUT TO THE MENT OF STREET STREET, STREET STREET, STREET STREET, STREET STREET, STREE
	Base Penalty \$10,00	00
>> Environmental, Property and Human Health M	<b>Strict</b>	-
Harm	Iduix	Book (C) year
Release Major Moderate	e Minor	et et e
OR Actual		-
Potential	Percent 0%	
D. Hall M. L.		
>>Programmatic Matrix Falsification Major Moderate	e Minor	
x X	Percent 10%	
Matrix Notes 100% of t	the rule requirement was not met.	
	Adjustment \$9,000	
	Aujustinent (#0,000	
	\$1,00	00
Violation Events		
Number of Violation Events 2	47 Number of violation days	
Training Library 21 and Library 21 a		
daily		
monthly x		-
mark only one quarterly with an x semiannual	Violation Base Penalty \$2,00	<u> </u>
with an x semiannual annual		
single event	=	
The penalty was calculated from the	investigation date, January 16, 2008, to the compliance date, March 3, 2008.	
Economic Benefit (EB) for this violation	Statutory Limit Test	i.
Estimated EB Amount	\$32 Violation Final Penalty Total \$1,50	00
	This violation Final Assessed Penalty (adjusted for limits) \$1,50	υO

	g j	conomic E	Benefit W	orks	sheet		
Responden	t Melrose Constr			206451 ATA A			
Case ID No	35564					100	
Reg. Ent. Reference No	RN105464515					And the second	
	Water Quality						Years of
Violation No						Percent Interest	Depreciation
Violation Ito			×22.782	anner de la company			<b>整整・食の・・・・・・・・・・・・・・・・・・・・・・・・・・・・・・・・・・</b>
	Name of the Control		report distant			5.0	18
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	→ EB Amount
Item Description	n No commas or \$						
Delayed Costs	<b>S</b>	Santaro e un territorio				· Section 1	san dalah Sa
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0,0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land			110-1400	0.0	\$0	n/a	\$0
Record Keeping System			1 (13,50)	0.0	\$0	n/a	\$0
Training/Sampling	47-51-51-51-51-51-51-51-51-51-51-51-51-51-		1945,00	0.0	\$0	n/a	\$0
Remediation/Disposal			1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	0.0	\$0	n/a	\$0
Permit Costs	. \$5,000	16-Jan-2008	3-Mar-2008	0.1	\$32	n/a	\$32
Other (as needed)	A STATE OF THE STA		y 42 (X 16 X X X X X X X X X X X X X X X X X X	0.0	\$0	n/a	\$0
Notes for DELAYED costs  Avoided Costs	Secretary Wilders	activities. Date Req	uired is the inves	tigation (	date, Final Date is	water associated with a compliance date	
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment	33, 10, 11, 11, 11, 11, 11, 11, 11, 11, 11			0.0	\$0	\$0	\$0
Financial Assurance [2]	200 - 17 - 17 plays 1.1.1.			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			and the second second	0.0	\$0	\$0	\$0
Other (as needed)		L		0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Notes for Avoided costs		Antigoni in .					

## **Compliance History**

Rating: 3.01

Site Rating:

Melrose Construction, Inc. Classification: AVERAGE CN601722937 Customer/Respondent/Owner-Operator: MELROSE CONSTRUCTION Classification: RN105464515 Regulated Entity: TUSCAN VILLAGE ID Number(s): 102 VALLEY VIEW STREET, GLEN ROSE, TX, 76043 Location: **REGION 04 - DFW METROPLEX** TCEQ Region: March 17, 2008 Date Compliance History Prepared: Agency Decision Requiring Compliance History: Enforcement March 17, 2003 to March 17, 2008 Compliance Period: TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Phone: (817) 588-5890 Name: Jorge Ibarra, P.E. Site Compliance History Components 1. Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a (known) change in ownership of the site during the compliance period? Νo N/A 3. If Yes, who is the current owner? 4. if Yes, who was/were the prior owner(s)? N/A N/A 5. When did the change(s) in ownership occur? Components (Multimedia) for the Site: Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. Any criminal convictions of the state of Texas and the federal government. В. N/A C. Chronic excessive emissions events. N/A The approval dates of investigations. (CCEDS Inv. Track. No.) D. N/A Written notices of violations (NOV). (CCEDS Inv. Track. No.) E. Environmental audits. F. N/A Type of environmental management systems (EMSs). G. N/A Η. Voluntary on-site compliance assessment dates. Participation in a voluntary pollution reduction program. I. N/A Early compliance.

Sites Outside of Texas N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
MELROSE CONSTRUCTION, INC.	§ ·	
RN105464515	§	ENVIRONMENTAL QUALITY

### AGREED ORDER DOCKET NO. 2008-0457-WQ-E

#### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Melrose Construction, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a residential construction site at 102 Valley View Street in Glen Rose, Somervell County, Texas (the "Site").
- 2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 10, 2008.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Two Hundred Dollars (\$1,200) of the administrative penalty and Three Hundred Dollars (\$300) is deferred contingent upon the Respondent's timely

and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that the Respondent submitted an administratively complete Notice of Intent ("NOI") and obtained coverage under Permit No. TXR15KA62 on March 3, 2008.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

#### II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to develop and implement a storm water pollution prevention plan ("SWP3") and obtain authorization coverage to discharge storm water associated with construction activities, in violation of 30 Tex. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on January 16, 2008.

#### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Melrose Construction, Inc., Docket No. 2008-0457-WQ-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
- 3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 5. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	B/25/208

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

mes Buch ant

James Burkhart

Name (Printed or typed) Authorized Representative of Melrose Construction, Inc.

5-22-08 Date

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.